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Heldi D. Campbell, Clerk
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Gregory K. Frizzell Judge
U.S. DISTRICT COURT

State of Oklahoma

Department of Agriculture, Food, and Forestry

J. Kevin Stitt
GovernorBlayne Arthur
Secretary of Agriculture

September 5, 2024

OS-CV-329-GKF

Honorable Judge Gregory Frizzell,

On behalf of our state's agriculture producers, I write to express concerns about adverse impacts of any court decision impacting the regulation of production agriculture. Respectfully, judicial adjustment of standards and requirements applicable to the poultry industry may circumvent the lawmaking process, which is best left to elected legislators and officials in the executive branch. I have tremendous respect for this Court and the judicial process, but fear that unintended consequences will invariably stem from issuance of a ruling consistent with the Court's order entered in 2023.

Here, the final ruling forecasted to the parties is based on circumstances that existed thirteen years ago. And the court-ordered modifications to standards and requirements applicable to the poultry industry do not contemplate current conditions, laws, technology, and information—all of which are significantly different than they were more than a decade ago.

For instance, at the time of closing arguments in early 2010, the state's soil test phosphorus limit was 300 for the Illinois River watershed, consistent with United States Department of Agriculture Natural Resources Conservation Service Standards (USDA NRCS). In or around 2021, however, the USDA NRCS recommended new soil test phosphorus criteria that generally does not exceed 200. In 2022, the Oklahoma Legislature passed responsive legislation, effective May 11, 2022, that required the Department to follow the preexisting standard of 300. Contrast that law with the ruling that poultry litter shall not be applied beyond a soil test phosphorus limit of 120 and should never be applied at greater than 65 pounds per acre. With respect, any such court-ordered standard will conflict with state law, making compliance confusing and untenable.

I respectfully recognize and appreciate the substantial time and consideration the Court has dedicated to this matter. I diligently focus to ensure the agency's and others' compliance with the laws in place and above all, to protect the environment while allowing essential industry to prosper in a responsible manner.

Thank you for your attention to this important matter.

Respectfully,

Blayne Arthur

Blayne Arthur
Oklahoma Secretary of Agriculture



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